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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,504	08/05/2003	David J. Alverson	0131-1	8679
25901	7590	12/07/2004	EXAMINER	
ERNEST D BUFF & ASSOCIATES, LLC 245 SOUTH ST MORRISTOWN, NJ 07960			CHOI, PETER H	
		ART UNIT		PAPER NUMBER
				3623

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,504	ALVERSON ET AL.	
	Examiner Peter Choi	Art Unit 3623	PC

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 8/05/03.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/28/03</u> .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Information Disclosure Statement*

1. The examiner is considering the Information Disclosure Statement submitted by the applicant on 11/28/03. However, note that the first U.S Patent document number has been changed from 5,909,3669 (an invalid patent) to 5,909,669, as specified in the abstract of the applicant's application.

### *Specification*

2. The disclosure is objected to because of the following informalities: In the description of prior art, the applicant has switched the descriptions of US Patent 6,345,258 to Pickens and US Patent 6,396,410B1 to Thompson. As submitted, the description for US Patent 6,345,258 to Pickens incorrectly describes the prior art of US Patent 6,396,410B1 to Thompson, and vice versa. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. Claim 6 recites the limitation "said surety institution" in line 3 (6a). There is insufficient antecedent basis for this limitation in the claim. For purposes of the following art rejection, the "said surety institution" of claim 6 is being interpreted as a surety institution.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 - 6 and 9 - 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (Patent No. #5,765,138) in view of Bladen et al. (Patent Application No. #US2002/0099586A1).

As per claim 1, Aycock et al. teaches a contractor certification (supplier evaluation) system comprising:

(a) survey means comprising a questionnaire (RFP/RFQ), which is provided to selected candidates (suppliers that desire to be qualified as vendors) within a contractor's business for assessing business (service and support) and financial practices; (price and availability) (Column 6, lines 1-9)

(c) on-location assessment (on-site audit) means for determining (validating) business and financial practices at the contractor's operations; (Column 7, lines 62-65)

(d) comparison means (risk assessment) for assessing business and financial practices (technical capabilities), and ranking the contractor in comparison with industry standards; (Column 8, lines 58-63)

(e) reporting means (product database) for providing a grade indicative of said contractor's rank (competitive analysis of all vendors to determine the respective performance); (Column 9, lines 59-67 and Column 10, lines 1-17)

However, Aycock et al. fails to teach a mapping means for studying answers provided to a questionnaire. Bladen et al. teaches a risk assessment system where performance can be compared against an industry benchmark using trend analysis graphs of results. It is old and well known in the art that results derived from a questionnaire or auditing process are quantifiable and therefore allows a number of statistical means, including graphs, to be used in an analysis or comparison. One of ordinary skill in the art at the time of invention would have clearly recognized that it is quite advantageous for these graphs to be used to compare the overall performance of a contractor to industry standards or competitors, or to map their individual strengths and weaknesses (Stage 2 of Paragraph 0461). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include a mapping means to get this advantage.

As per claim 2, Aycock et al. teaches a contractor certification (supplier evaluation) system with a questionnaire (maturity questions) composed of non-threatening (objective) questions. (Column 6, lines 55-59)

As per claim 3, Bladen et al. teaches a contractor certification (risk assessment) system where the mapping means (graphs of results) develops, within answers to questions, areas comprising clear matches, clear discrepancies and inadequate details for on location assessment. (Paragraph 0345)

It is old and well known in the art that a graphical representation of data can be used as a method of comparison. As previously mentioned, it is old and well known that the results from a questionnaire can be quantified and graphed. The resulting graphs could be used to compare overall results, or results to particular questions. These graphs may highlight strengths or weaknesses of a contractor in comparison to competitors or industry standards. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include a mapping means to compare the results of a contractor in a particular aspect or the response to a particular question from the questionnaire.

As per claim 4, Aycock et al. teaches a contractor certification (supplier evaluation) system where the on-location (on-site) assessments (evaluations) comprise job site visits (on-site audit). (Column 3, line 36 and Column 8, lines 20-24)

As per claim 5, Aycock et al. teaches a contractor certification (supplier evaluation) system where the comparison means comprises an evaluation of the contractor's business and financial practice data against one or more databases containing performance and risk factor data from similar contractors (existing and historical vendor performance and on-site audit reports), stored by the contractor certification (supplier evaluation) system. (Column 9, lines 38-57)

As per claim 6 and 11, Aycock et al. and Bladen et al. are silent regarding the use of a special logo or insignia to represent the caliber of a contractor's work or the successful completion of the certification program. Official Notice is taken that both the concept and the advantages of providing for displays which recognize a contractor's services exceeding industry standards is well known and expected in the art. It would have been obvious to modify the teachings of Aycock et al. and Bladen et al. to have included a symbol of recognition or certification or similar incentives to contractors in exchange for participation in quality assessment programs. It is also well known and expected in the art that contractors who receive recognition or certification would adapt it for use in promotion of their business, whether it be on stationary, the company website, or other mediums of advertising.

Official Notice is also taken that when a contractor (or any firm) subjects itself to assessment, evaluation, or certification, the firm will receive some sort of notification (usually in written form) regarding their performance. This notification

will entail the findings of the assessment, evaluation, or certification, and can be used by surety institutions in underwriting loans to the contractor.

As per claim 9, Aycock et al. teaches a contractor certification (supplier evaluation) system as recited by claim 5, where the database (vendor database) stored comprises a compilation of business and financial and risk data derived from contractors previously evaluated (existing and historical vendor performance or on-site audit reports). (Column 9, lines 38-57)

As per claim 10, Aycock et al. teaches a contractor certification (supplier evaluation) system as recited by claim 6, where the comparison report (vendor performance report) sets forth said contractor's business and financial practices (vendor performance and on-site audit reports) with detail sufficient to assist surety institutions engaged in underwriting a contractor's credit line. (Column 9, lines 38-57)

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. and Bladen et al. as applied to claims 1 - 6 above, and further in view of Armstrong et al. (U.S Patent No. #5,627,973).

As per claims 7 and 8, the collective teachings of Aycock et al. and Bladen et al. fail to disclose the composition of the administered questionnaire. However, Armstrong et al. teaches a method for evaluating business opportunities using a

series of questions relating to the customer's level of sophistication for predefined business techniques. Armstrong et al. discloses a question set with questions directed to management structure, authority delegation, decision-making practices, budding processes, and project execution practices (Columns 10 – 23). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. and Bladen et al. to include questions regarding organizational and managerial aspects to perform a more thorough assessment of the contractor's practices.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S Patent No. #US2004/0010709A1 to Baudoin et al. teaches a method for assessing security practices of an organization, including the determination of any associated risks, the generation of a risk rating, and the use of interviews to collect data. U.S Patent No. #US2003/0126049A1 to Nagan et al. teaches a risk assessment method comprising a questionnaire, a database to store responses of the user and previous respondents, and a comparison report detailing the contractor's performance.

"RPA Certified Exam Starts for Installers and Designers" discloses a certification exam program to add credibility and recognition to qualified individuals within the industry. "Quality Assessment Program Inspects

Residential Contractors" discloses a contractor quality assessment program that results in a contractor being certified as "Quality Assessed".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (703) 305-0852. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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November 15, 2004